

N. KEITH CHAMBERS
EXECUTIVE DIRECTOR

IN THE MATTER OF:

Complainant,

NATIONAL VEHICLE TITLE & LIC. INC.,

Respondent.

EEOC NO: N/A

ALS NO: S07-893

This matter comes to me on Complainant's written request to withdraw her Complaint on grounds that it was not timely filed. Respondent has not filed a response, although the time for doing so has expired.

Based upon the record in this matter, I make the following findings of fact:

1. On November 9, 2006 Complainant filed a perfected Charge of Discrimination on her own behalf alleging that she was terminated in retaliation for having reported sexual harassment to her supervisor.
2. On November 29, 2007, Complainant filed with the Commission a *pro se* Complaint of Discrimination again alleging that she was terminated in retaliation for having reported sexual harassment to her supervisor.
3. On February 1, 2008, Complainant filed with the Commission a request to withdraw her Complaint on grounds that the Department had informed her that its letter informing her that she could file her own complaint with the Commission at this time was sent in error, and that she would be attending a scheduled fact-finding conference.

Conclusions of Law

1. Complainant is an individual claiming to be aggrieved by a violation of the Illinois Human Rights Act (775 ILCS 5/1-101 et seq.).

2. Section 7A-102(G)(2) of the Human Rights Act (775 ILCS 5/7A-102(G)(2)) grants complainants the ability to file their own complaints with the Commission, but only between 365 and 395 days after a perfected charge of discrimination has been filed, or such longer period of time agreed to in writing by the parties.

Determination

A dismissal of Complainant's Complaint without prejudice is warranted where Complainant has withdrawn her Complaint due to the Department's representation that her Complaint is not timely.

Discussion

Section 7A-102(G)(2) of the Human Rights Act (775 ILCS 5/7A-102(G)(2)) authorizes a complainant to file a complaint on her own behalf with the Commission within 30 days after the expiration of 365 days from the filing of her charge of discrimination, or 30 days after such longer period agreed to by the parties in writing, if the Department has not sooner ordered that no complaint be issued. The Commission has considered instances where complainants have filed their own complaints outside the thirty-day window and have found these filings to be jurisdictionally deficient. (See, *Quigley and Peoria Civic Center*, IHRC, S9042, January 26, 1996.) At first glance, though, it would appear that Complainant has filed a timely Complaint given that it was filed within the original 30-day window after the expiration of the Department 365-day period for investigating the allegations in Complainant's Charge of Discrimination. Apparently, though, the parties executed an extension of time for the Department to investigate the allegations in the Charge of Discrimination, which is not contained in the instant record, but

is alluded to in Complainant's request to withdraw the instant Complaint. Under these circumstances, the reasonable thing to do is to grant Complainant's request to withdraw her Complaint without prejudice to the Department continuing its investigation within any agreed to investigation period.

Recommendation

For all of the above reasons, it is recommended that Complainant's request to dismiss this case as untimely be granted without prejudice, and that the underlying Charge of Discrimination be remanded back to the Department of Human Rights for further investigation on the Complaint.

HUMAN RIGHTS COMMISSION

BY: _____
MICHAEL R. ROBINSON
Administrative Law Judge
Administrative Law Section

ENTERED THE 17TH DAY OF APRIL, 2009